

MINUTES

MONTANA SENATE 59th LEGISLATURE - SPECIAL SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN MIKE WHEAT**, on December 14, 2005 at 10:30 A.M., in Room 317 Capitol.

ROLL CALL

Members Present:

Sen. Mike Wheat, Chairman (D)
Sen. Brent R. Cromley (D)
Sen. Aubyn Curtiss (R)
Sen. Jon Ellingson (D)
Sen. Dan McGee (R)
Sen. Lynda Moss (D)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Sen. Gary L. Perry (R)
Sen. Jim Shockley (R)

Members Excused:

Sen. Jesse Laslovich (D)
Sen. Jeff Mangan (D)

Members Absent: None.

Staff Present: Valencia Lane, Legislative Branch
Senate Secretary Reserved, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SR 1, 12/12/2005; SR 2, 12/12/2005
Executive Action: SR 1; SR 2

HEARING ON SR 1

00:00:01

Opening Statement by Sponsor:

00:02:20

SEN. MIKE WHEAT (D), SD 32, opened the hearing on **SR 1**, Confirm water judge.

Proponents' Testimony:

00:04:27

Karla Gray, Chief Justice Montana Supreme Court spoke in favor of the reappointment of **Bruce Loble** for Chief Water Judge for the State of Montana.

Mike Murphy, Montana Water Resources Association spoke in favor of the reappointment. He noted **John Youngberg, Farm Bureau**, was also a proponent.

Opponents' Testimony:

None.

Informational Testimony:

Questions from Committee Members and Responses:

00:09:39

Bruce Loble, Chief Water Judge, addressed the committee.

00:11:59

SEN. DAN MCGEE questioned **Judge Loble** about speeding up the adjudication process.

00:14:28

SEN. MCGEE asked a further question.

00:15:10

CHAIRMAN MIKE WHEAT inquired about staff at the Water Court.

00:17:03

Followup question by **CHAIRMAN WHEAT** and response.

Closing by Sponsor:

CHAIRMAN WHEAT closed on the resolution.

HEARING ON SR 2

00:18:28

Opening Statement by Sponsor:

SEN. MIKE WHEAT (D), SD 32, opened the hearing on **SR 2**, Confirm worker's compensation judge.

Proponents' Testimony:

00:20:23

Al Smith, Montana Trial Lawyers Association spoke in favor of the confirmation of **Judge Jim Shea**.

00:21:57

Eric Stern, Senior Counselor to the Governor, strongly supported the confirmation.

Opponents' Testimony:

00:22:37

SEN. DUANE GRIMES raised the issue of the role of the Work Comp Judge regarding public policy and Shea's background representing plaintiffs.

Informational Testimony:

00:30:50

Judge Shea addressed the committee regarding his confirmation.

Questions from Committee Members and Responses:

00:40:21

SEN. JIM SHOCKLEY asked a question of **Judge Shea**.

00:41:26

SEN. DAN MCGEE asked how many workers comp court cases **Judge Shea** had been involved in as an attorney and also asked about his application.

SEN. MCGEE inquired about the workload and backlog at the court.

SEN. MCGEE asked a followup question about the *Thompson* case.

00:52:09

SEN. MCGEE asked a further followup question about the authority of the Work Comp Judge to rule a statute unconstitutional.

SEN. MCGEE questioned **Judge Shea** about the award in the *Miller* case.

00:57:04

CHAIRMAN WHEAT asked questions of **Judge Shea** about his ability to set aside passions and prejudices from his advocacy background.

CHAIRMAN WHEAT continued his questioning about the issue raised by the opponent.

CHAIRMAN WHEAT asked for an assurance that **Judge Shea** would be unbiased and follow the law.

01:05:58

SEN. GARY PERRY asked **Judge Shea** to explain the sequence of a claim through his court and beyond.

SEN. PERRY asked if Judge Shea had employees who had workers comp claims. He then asked if an employer should be allowed to be aware of past work comp claims of a prospective employee.

SEN. PERRY continued his line of questioning to **Judge Shea** and further questioned his philosophy.

SEN. PERRY asked for assurance that **Judge Shea** could judge fairly for both sides.

01:19:19

SEN. SHOCKLEY questioned **Judge Shea**.

01:20:55

SEN. JERRY O'NEIL pursued a line of questioning of **Judge Shea** about representation of injured workers at trial.

01:32:02

SEN. LINDA MOSS addressed **Judge Shea**.

01:33:01

SEN. BRENT CROMLEY commented.

Closing by Sponsor:

01:34:08

CHAIRMAN WHEAT closed on SR 2.

01:37:01

SEN. O'NEIL requested that executive action be postponed.

01:37:56

break

02:03:27

reconvene

EXECUTIVE ACTION ON SR 1

Motion: SEN. MCGEE moved that SR 1 DO PASS.

Discussion:

SEN. MCGEE spoke to the motion favorably.

Vote: Motion carried unanimously by voice vote. SEN. ELLINGSON, SEN. MANGAN and SEN. SHOCKLEY voted aye by proxy.

EXECUTIVE ACTION ON SR 2

02:06:09

Motion: SEN. MCGEE moved SR 2 DO PASS.

Discussion:

SEN. MCGEE spoke in favor of the motion.

Vote: Motion carried unanimously by voice vote. SEN. ELLINGSON, SEN. MANGAN and SEN. SHOCKLEY voted aye by proxy.

02:09:32

ADJOURNMENT

Adjournment: 1:05 P.M.

SEN. MIKE WHEAT, Chairman

PRUDENCE GILDROY, Secretary

MW/pg

Additional Exhibits:

EXHIBIT ([jus01aad0.PDF](#))